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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 735,720	12 12 2000	Ariana L. Blum		4530

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Blum, Ariana L.
255 Warren Street # 910
Jersey City, NJ 07302

EXAMINER

CARIASO, ALAN B

ART UNIT PAPER NUMBER

2875

DATE MAILED: 12 12 2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/735,720

Applicant(s)

BLUM, ARIANA L.

Examiner

Alan Cariaso

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 12 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because: (a.) reference numeral "36" in figure 3 is directed to a circular element which does not match its description in the specification that "36" is "in the form of an elongate wire or strip" (pg.5, lines 24-26); (b.) reference numeral "34" is directed to something other than its designated part of a "flexible covering". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of wires incorporated in the flexible covering (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is observed to have the following informalities: The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper."

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Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The plurality of shapeable wires incorporated in the flexible covering.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5, 6 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 5 recites the limitation "said flexible lighting element" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. No precedent of this limitation is found in the claim and preceding claim 1.

8. Claim 6 is indefinite for depending on indefinite claim 5.

9. Claim 11, lines 2-3, the limitation "shapeable wires incorporated in at least part of said flexible covering" is indefinite as being misdescriptive since the specification only describes use a singular wire in the flexible covering. It is also indefinite as to lacking structural relationship(s) between the plural wires.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

11. Claims 1-3, 5-10 and 12-19 are rejected under 35 U.S.C. 102(e) as being anticipated by PARKER et al (US 6,185,356).

12. PARKER discloses a selectably changeable shape lighting device and method of providing: a flexible lighting element includes a rope light (light distributor 1160, fig. 16A; col. 13, lines 15-35); an adjustable shape-retaining element being at least a metal wire (1150) integrally formed with the flexible lighting element (figs. 16A,16B); a translucent or transparent flexible covering (outer sleeve 1170; col.13, line 26) coupled about the flexible lighting element (1160, fig.16B) and incorporating the metal wire.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over PARKER et al (US 6,185,356).

15. PARKER discloses applicant's invention except a plurality of tiny light bulbs molded in the plastic tube. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the plural light emitters (1110) internal of the flexible lighting element or tube (1170) of PARKER et al to include a plurality of internal light bulbs, since the examiner takes Official Notice of the equivalence of plural and spaced light bulbs in a tube and plural light emitters internal of an optic tube for their use in the illumination art and the selection of any of these known equivalents to illuminate areas along the optical or light emitting tube would be within the level of ordinary skill in the art.


16. PARKER discloses applicant's invention except plural wires in the flexible covering. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the wire-supported illuminated tube of PARKER et al to include a plurality of wires, since a multiplicity of the wire provided by PARKER is considered an obvious matter of design choice of which no unexpected results are disclosed and would be within the level of ordinary skill in the art.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. LIN (US 6,305,822) and BELFER et al (US 5,452,187) show other bendable elongate support of plural light sources that incorporate or are integral with means that allow retaining the adjustable form. CHATTEN (US 4,020,337) shows upstanding light tubes with internal light bulbs (fig.4). PALMER (US 6,179,440) shows an elongated elongate support connected as unit to a flexible light emitting tube or rope light.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (703) 308-1952. The examiner can normally be reached on M-F (9:00-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Alan Cariaso
Primary Examiner
Art Unit 2875

AC
December 10, 2001